

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

CODEMASTERS GROUP HOLDINGS
LIMITED

Plaintiff,

v.

SOUTHPEAK INTERACTIVE CORPORATION

Defendant.

Civil Action No. 3:11-cv-068

DECLARATION OF TERRY PHILLIPS

1. My name is Terry Phillips. I am over the age of 18 and a resident of Midlothian, Virginia.

2. Since May 2008, I have served as Chairman of Southpeak Interactive Corporation ("Southpeak").

3. On or about November 27, 2009, Southpeak entered a Settlement Agreement ("Settlement Agreement") with Codemasters Group Holdings, Ltd. ("Codemasters").

4. Prior to executing the Settlement Agreement, and on or about November 2, 2009, I received an email from Simon Parsons, then the Chief Financial Officer of Codemasters, acknowledging the choice of law provision in the Settlement Agreement, and Codemasters' acquiescence to such provision. A true and accurate copy of Mr. Parsons' November 2, 2009 email is attached hereto at Exhibit A.

5. Subsequent to the execution of the Settlement Agreement, Southpeak and Codemasters initiated discussions regarding a possible revised payment schedule.

6. On or about August 5, 2010, I received an email from Julian Ward, then the Director of Business Affairs at Codemasters, to which a proposed written amendment to the Settlement Agreement was attached ("August 5 Proposed Amendment"). Mr. Ward requested that I execute the August 5 Proposed Amendment and return it to him. A true and accurate copy of Mr. Ward's August 5, 2010 email is attached hereto at Exhibit B. Neither I nor anyone else at Southpeak executed, or agreed to the terms of, the August 5 Proposed Amendment.

7. On or about September 22, 2010, I received an email from Simon Moynihan, then Assistant Lawyer for Codemasters, to which another proposed written amendment to the Settlement Agreement was attached ("September 22 Proposed Amendment"). A true and accurate copy of Mr. Moynihan's September 22, 2010 email is attached hereto at Exhibit C. Neither I nor anyone else at Southpeak executed, or agreed to the terms of, the September 22 Proposed Amendment.

8. Rather, on or about September 24, 2010, I received another email from Mr. Moynihan, inquiring as to whether I had been able to review the September 22 Proposed Amendment. A true and accurate copy of Mr. Moynihan's September 24, 2010 email is attached hereto at Exhibit D.

9. On or about September 29, 2010, I emailed Mr. Parsons, informing him that Southpeak had not yet reviewed the business terms of the September 22 Proposed Amendment but was rejecting the payment schedule Codemasters had proposed. I stated that I wished to "confirm [the parties'] understanding of the payment schedule," and informed him that Southpeak had only "agreed to \$25,000 /week through the end of November, \$50,000 per week through the end of December and \$75,000/week thereafter

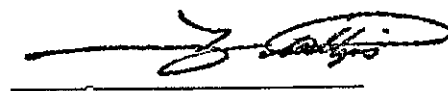
with the intention of getting the full amount paid with the cash available from [Southpeak's] launch of Two Worlds II." Mr. Parsons replied to this email, acknowledging that these payment terms departed from the terms in the September 22 Proposed Amendment. Specifically, Mr. Parsons stated, "you've changed what we discussed and what you previously offered...." A true and accurate copy of my September 29, 2010 email to Simon Parsons and his September 29, 2010 response is attached hereto at Exhibit E. There was no agreement on the counter-proposals that both parties offered.

10. Subsequently, the parties continued to discuss payment options, and on November 3, 2011, Southpeak offered a new payment schedule. On December 24, 2010, Codemasters accepted that new schedule. In his December 24, 2010 response, Mr. Paul Martin, the new Chief Financial Officer for Codemasters, stated that "[b]ased on [Southpeak's] proposal, which [Codemasters] accepted, [Southpeak is] now at least \$200k payable to [Codemasters] today." A true and accurate copy of my November 3, 2010 email to Mr. Martin and his December 24, 2010 response is attached at Exhibit F.

11. At no point did Southpeak make any payment based on the September 22 Proposed Amendment.

I declare under penalty of perjury that the foregoing is true and correct.

This the 24th day of March, 2011.

A handwritten signature in black ink, appearing to read "Terry Phillips", written over a horizontal line.

Terry Phillips

EXHIBIT

A

From: Simon Parsons [Simon.Parsons@codemasters.com]
Sent: Monday, November 02, 2009 5:17 AM
To: Terry Phillips @ SouthPeak
Cc: Julian Ward
Subject: SouthPeak Settlement Agreement V3 30-10-09.doc
Follow Up Flag: Follow up
Flag Status: Red
Attachments: SouthPeak Settlement Agreement V3 30-10-09.doc

Hi Terry,

I hope you are well. Apologies that this didn't get to you Friday - particularly as I worked on it until late and then it became caught in my outbox from home! Take a look - I don't think there's anything controversial in here - happy to talk once you've been through. You'll note its English Law which I agree is a little strange given that its between 2 US companies - we can leave as is or convert - I'm not precious.

Cheers

Simon

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EXHIBIT

B

From: Julian Ward [julian.ward@codemasters.com]
Sent: Thursday, August 05, 2010 10:10 AM
To: Terry Phillips @ SouthPeak
Cc: Simon Parsons
Subject: Codemaster - South Peak Amendment
Importance: High
Attachments: South Peak Settlement Amendment.doc

Terry,

I attach an Amendment to the Settlement Agreement. Please arrange to execute duplicate copies and return to me at the address below. Please also send through a scanned signed copy. Simon, looks forward to you calling him today.

Regards

Julian

Julian Ward
Director, Business Affairs
+44(0)1926 816017
Codemasters, Codemasters Campus
Stoneythorpe, Southam
Warwickshire, CV472DL.
England

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From: Simon Moynihan [simon.moynihan@codemasters.com]
Sent: Wednesday, September 22, 2010 2:05 PM
To: Terry Phillips @ SouthPeak
Cc: Simon Parsons; Paul Martin; Julian Ward
Subject: Codemasters / Southpeak Settlement Agreement
Attachments: South Peak Settlement Amendment 22 Sept 2010.doc; Southpeak Interactive.xlsx

Dear Terry,

As discussed with Simon, please find attached a revised amendment to the Settlement Agreement. I have also attached Simon's payment calculations, for your reference.

Kind regards

Simon.

Simon Moynihan | Assistant Lawyer | Codemasters Software Co. Ltd
Codemasters Campus, Stoneythorpe, Southam, Warwickshire. CV47 2DL
Tel: +44 (0)1926 816000 | Fax: (0)1926 810239
simon.moynihan@codemasters.com
www.codemasters.com

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EXHIBIT

D

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From: Simon Moynihan [simon.moynihan@codemasters.com]
Sent: Friday, September 24, 2010 10:51 AM
To: Terry Phillips @ SouthPeak
Cc: Simon Parsons; Paul Martin; Julian Ward
Subject: RE: Codemasters / Southpeak Settlement Agreement
Follow Up Flag: Follow up
Flag Status: Red
Attachments: South Peak Settlement Amendment 22 Sept 2010.doc; Southpeak Interactive.xlsx

Dear Terry,

I was wondering whether you had been able to review the attached amendment as yet? I would be grateful for your feedback today if possible.

Kind regards

Simon.

From: Simon Moynihan
Sent: 22 September 2010 19:05
To: 'terryphillips@southpeakgames.com'
Cc: Simon Parsons; Paul Martin; Julian Ward
Subject: Codemasters / Southpeak Settlement Agreement

Dear Terry,

As discussed with Simon, please find attached a revised amendment to the Settlement Agreement. I have also attached Simon's payment calculations, for your reference.

Kind regards

Simon.

Simon Moynihan | Assistant Lawyer | Codemasters Software Co. Ltd
 Codemasters Campus, Stoneypurton, Southam, Warwickshire. CV47 2DL
 Tel: +44 (0)1926 816000 | Fax: (0)1926 810239
simon.moynihan@codemasters.com
www.codemasters.com

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E

From: Simon Parsons [Simon.Parsons@codemasters.com]
Sent: Wednesday, September 29, 2010 3:37 PM
To: Terry Phillips @ SouthPeak
Cc: Paul Martin
Subject: RE: Codemasters / Southpeak Settlement Agreement
Follow Up Flag: Follow up
Flag Status: Yellow

Hi Terry – you've changed what we discussed and what you previously offered - \$25k per w in Oct, \$50k in Nov and the \$75 in Dec etc etc. Can you confirm please before we see R & R Thx

Simon Parsons | Chief Financial Officer | Codemasters Software Co. Ltd
 Codemasters Campus, Stoneythorpe, Southam, Warwickshire, CV47 2DL
 Tel: +44 (0)1926 819202 | Mob: +44 (0)774 7535851 | Fax: +44 (0)1926 810239
simon.parsons@codemasters.com
www.codemasters.com

From: Terry Phillips @ SouthPeak [mailto:tphillips@southpeakgames.com]
Sent: 29 September 2010 19:49
To: Simon Parsons
Subject: RE: Codemasters / Southpeak Settlement Agreement

Hi Simon,

We have not yet had the opportunity to have this amendment agreement reviewed by counsel. However, I did want to confirm our understanding of the payment schedule. We have agreed to \$25,000 /week through the end of November, \$50,000 per week through the end of December and \$75,000/week thereafter with the intention of getting the full amount paid with the cash available from our launch of Two Worlds II.

Regards,

Terry

From: Simon Parsons [mailto:Simon.Parsons@codemasters.com]
Sent: Wednesday, September 29, 2010 2:24 PM
To: Terry Phillips @ SouthPeak
Cc: Paul Martin
Subject: Fw: Codemasters / Southpeak Settlement Agreement

Fyi below - its was Simon M that sent the original.

From: Simon Moynihan
Sent: Friday, September 24, 2010 03:51 PM
To: 'terryphillips@southpeakgames.com' <terryphillips@southpeakgames.com>
Cc: Simon Parsons; Paul Martin; Julian Ward
Subject: RE: Codemasters / Southpeak Settlement Agreement

Dear Terry,

I was wondering whether you had been able to review the attached amendment as yet? I would be grateful for your feedback today if possible.

Kind regards

Simon.

From: Simon Moynihan
Sent: 22 September 2010 19:05
To: 'terryphillips@southpeakgames.com'
Cc: Simon Parsons; Paul Martin; Julian Ward
Subject: Codemasters / Southpeak Settlement Agreement

Dear Terry,

As discussed with Simon, please find attached a revised amendment to the Settlement Agreement. I have also attached Simon's payment calculations, for your reference.

Kind regards

Simon.

Simon Moynihan | Assistant Lawyer | Codemasters Software Co. Ltd
 Codemasters Campus, Stoneythorpe, Southam, Warwickshire, CV47 2DL
 Tel: +44 (0)1926 816000 | Fax: (0)1926 810239
simon.moynihan@codemasters.com
www.codemasters.com

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From: Paul Martin [mailto:paul.martin@codemasters.com]
Sent: Friday, December 24, 2010 4:23 AM
To: Terry Phillips @ SouthPeak
Cc: Gary Norman
Subject: RE: Payment schedule

Terry,

Based on your proposal, which we accepted, you are now at least \$200k payable to us today. Can you confirm that you are releasing these funds through R&R?

Thanks

Paul

From: Terry Phillips @ SouthPeak [mailto:tphillips@southpeakgames.com]
Sent: 03 November 2010 17:55
To: Paul Martin
Subject: Payment schedule

Paul,

Please see below the payment schedule that we currently feel comfortable with based on delivery schedule from Nintendo, etc...

This amount could be deducted by Rosenthal. Obviously, if for some reason there is a shift in delivery dates or something unforeseen comes up and there is no availability that week from Rosenthal we will have to shift it to the next week.

<u>Week Ending</u>	<u>Payment</u>
November 12	\$25,000.00
November 19	\$25,000.00
November 26	\$25,000.00
December 3	\$25,000.00
December 10	\$25,000.00
December 17	\$75,000.00
December 24	\$100,000.00
December 31	\$100,000.00
January 7	\$100,000.00

January 14 on we would pay \$150,000.00 per week until the agreed balance is completed.

Let me know your thoughts or if you have any questions.

Thanks again for your help on this.

Regards,

Terry

Terry Phillips
 SouthPeak Games
 2900 Polo Parkway
 Midlothian, VA 23113
 Phone: 804-378-5100 | Fax: 804-378-6085
<http://www.southpeakgames.com>

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